



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-0027]

RIN 1625-AA11

Regulated Navigation Area; Lake Washington, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area for certain navigable waters of Lake Washington. The regulated navigation area is intended to protect personnel and vessels moored in the vicinity and other vessel traffic from potential hazards created by vessel wake. Vessels transiting this area will be restricted to speeds that create a minimum wake.

DATES: This rule is effective from 8 p.m. on August 3, 2018, through 11:59 p.m. on August 5, 2018. This rule will be enforced from 8 p.m. to 8 a.m. daily from August 3, 2018, through August 4, 2018 and from 8 p.m. to 11:59 p.m. on August 5, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0027 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management, Coast Guard; telephone 206-217-6051, SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

| | |
|--------|---------------------------------|
| CFR | Code of Federal Regulations |
| DHS | Department of Homeland Security |
| FR | Federal Register |
| NPRM | Notice of proposed rulemaking |
| § | Section |
| U.S.C. | United States Code |

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the extraordinary amount of vessel traffic occurring after Seafair marine events and wake hazards posed to persons and vessels moored to the log booms and other vessel traffic in the regulated navigation area. Wakes created by vessels transiting in the vicinity of the vessels moored to the log boom pose a safety concern to personnel aboard those vessels and damage to property. Prompt action is needed to restrict vessel movement prior to and after Seafair events. It is impracticable to publish an NPRM because we must establish this regulated navigation area by August 3, 2018.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this

rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because prompt action is needed to respond to the potential safety hazards associated with excessive vessel wake and the hazards posed to personnel and vessels moored in the vicinity, particularly those moored to the log booms on Lake Washington as well as other vessel traffic in the area.

III. Legal Authority and Need for Rule

On July 25, 2018, numerous local entities notified the Coast Guard of potential hazardous conditions associated with increased vessel and swimmer congestion before and after Seafair, which may make routine navigation unsafe for persons and vessels. The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The District Commander has determined that potential hazards associated with excessive vessel wake from August 3, 2018, through August 5, 2018, will be a safety concern for anyone south of the Interstate 90 Bridge and north of Bailey Peninsula due to extraordinary amount of vessel traffic occurring after Seafair marine events. Wake hazards caused by this anticipated increase in marine traffic will pose significant risk to persons and vessels moored to the log booms and other vessel traffic in the area. This rule is needed to protect persons and vessels in the navigable waters within the regulated navigation area from excessive vessel wake occurring prior to and after Seafair Events.

IV. Discussion of the Rule

This rule establishes a regulated navigation area from 8 p.m. to 8 a.m. daily from August 3, 2018, through August 4, 2018 and from 8 p.m. to 11:59 p.m. on August 5, 2018. The regulated navigation area will cover all navigable waters south of the Interstate 90 floating bridge and north of a line between the Bailey peninsula and Mercer Island. The duration of the regulated navigation area is intended to protect personnel and vessels in these navigable waters from

excessive wake associated with vessel traffic before and after Seafair events. Vessels transiting the area will be required to create minimum wake at speeds less than 7 miles per hour.

Enforcement periods for this rule will occur daily prior to and immediately following Seafair Unlimited Hydroplane Race activities.

On June 25, 2018 (83 FR 29438), we published a related notice of enforcement of regulation for 33 CFR 100.1301, Seattle Seafair unlimited hydroplane race. That regulation will be enforced from 8 a.m. on July 31, 2018, through 8 p.m. on August 6, 2018.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration and time-of-day of the regulated navigation area. Vessel traffic will be able to transit through the regulated navigation area, only impacting a small designated area of Lake Washington for less than three days. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM

marine channel 16 about the regulated navigation area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated navigation area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast

Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a regulated navigation area lasting less than 3 days that will restrict vessel speed between the I-90 floating bridge and a line drawn perpendicular from Bailey Peninsula to Mercer Island. It is categorically excluded from further review under L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T13-0027 to read as follows:

§ 165.T13-0027 Regulated Navigation Area; Lake Washington; Seattle, WA.

(a) Location. The following area is a regulated navigation area: The waters of Lake Washington bounded by the Interstate 90 (Mercer Island/Lacey V. Murrow) Bridge, the western shore of Lake Washington, and the east/west line drawn tangent to Bailey Peninsula and along the shoreline of Mercer Island.

(b) Definitions. As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Puget Sound (COTP) in the enforcement of the regulated navigation zone.

(c) Regulations. All vessels and persons transiting this regulated navigation area shall proceed at a speed which creates minimum wake, 7 miles per hour or less.

(d) Enforcement periods. This section will be enforced from 8 p.m. to 8 a.m. daily from August 3, 2018, through August 4, 2018 and from 8 p.m. to 11:59 p.m. on August 5, 2018.

Dated: July 31, 2018.

D. G. Throop,

RADM, U.S. Coast Guard,

Commander, Thirteenth Coast Guard District.

[FR Doc. 2018-16683 Filed: 8/2/2018 8:45 am; Publication Date: 8/3/2018]